

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
PUGET SOUND MANUFACTURING COMPANY,  
  
Appellant,  
  
vs.  
  
PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,  
  
Respondent.

PCHB No. 199

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

This matter, the appeal of a \$250.00 civil penalty for an alleged smoke emission violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, hearing officer) as a formal hearing in the law offices of Burkey, Marsico, Rovai & McGoffin in Tacoma at 1:30 p.m., December 15, 1972.

Appellant was represented by its Secretary, Alan Warnick. Respondent appeared through its counsel, Keith D. McGoffin. Eugene E. Barker, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were offered and

1 admitted.

2 On the basis of testimony heard and exhibits examined, the Pollution  
3 Control Hearings Board prepared Proposed Findings of Fact, Conclusions  
4 and Order which were submitted to the appellant and respondent on  
5 March 14, 1973. No objections or exceptions to the Proposed Findings,  
6 Conclusions and Order having been received, the Pollution Control  
7 Hearings Board makes and enters the following

8 FINDINGS OF FACT

9 I.

10 During the afternoon of August 16, 1972, black smoke ranging from  
11 No. 2½ to No. 3½ on the Ringelmann scale was emitted for 14 minutes from  
12 the boiler stack of Puget Sound Manufacturing Company, 1123 St. Paul  
13 Avenue, Tacoma, Pierce County.

14 II.

15 Notice of Violation No. 5532 was served on appellant as a result of  
16 this incident. Appellant had been the subject of a previous Notice of  
17 Violation (No. 3925) on February 4, 1972. No civil penalty was issued  
18 for Notice of Violation 3925, but Notice of Civil Penalty 425, in the  
19 sum of \$250.00, which is the subject of this appeal, was served on  
20 appellant in connection with Notice of Violation 5532.

21 IV.

22 A substitute, replacing the regular fireman who was on vacation,  
23 was at the controls of the boiler on August 16, 1972. The substitute  
24 was not familiar in all details with the operation of the boiler and  
25 burned materials which caused the black smoke. Subsequently, the  
26 substitute, and other employees, were instructed by appellant on

27 FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 precautions to take to avoid a repetition of the incident.

2 From these Findings, the Pollution Control Hearings Board comes  
3 to these

4 CONCLUSIONS

5 I.

6 Appellant was in violation of Section 9.03(a) of respondent's  
7 Regulation I on August 16, 1972. The incident was caused by an  
8 inexperienced substitute fireman who subsequently was instructed by  
9 appellant on procedures to take to avoid future violations.

10 II.

11 In view of the circumstances and the apparent desire of appellant  
12 to abide by respondent's regulations, Notice of Civil Penalty 425,  
13 in the maximum amount of \$250.00, appears to be excessive.

14 Therefore, the Pollution Control Hearings Board issues this

15 ORDER

16 Notice of Violation 5532 is sustained, but Notice of Civil Penalty  
17 425 is remanded to respondent for selection of a more appropriate  
18 amount not to exceed one-half of the original civil penalty.

19 DONE at Lacey, Washington this 14th day of June, 1973.

20 POLLUTION CONTROL HEARINGS BOARD

21 Walt Woodward  
22 WALT WOODWARD, Chairman

23 James T. Sheehy  
24 JAMES T. SHEEHY, Member

25 Mr. W. A. Gissberg, the other member of this Board, not having  
26 participated in the hearing on this matter has declined to sign  
27 this Order.

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER